

SENATE BILL 3432

By Bell

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 68 and Title 69, relative to environmental
protection.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 69-3-103, is amended by adding the following new subdivisions thereto:

() "Restoration" means restoring an altered, unstable, or converted wetland or stream to a stable condition that improves its geomorphic, biological, and chemical integrity, reduces sedimentation, provides and enhances habitat, improves health of the aquatic community and restores wetland or stream functions and values;

() "Section 404 permit" means a permit issued by the United States army corps of engineers under 33 U.S.C. §§ 1344 et seq. and "Section 401 certification" means a water quality certification issued under 33 U.S.C. § 1341;

() "Stream mitigation review team" (SMRT) means the interagency committee established pursuant to agreement with the USACE pursuant to § 404 of the Clean Water Act to approve proposed projects for design and construction with TSMP funds within the county in which they occur and perform annual reviews of ongoing and completed projects;

() "Stream restoration and mitigation" means restoration of wetlands, streams, or other waterbodies, and mitigation of adverse effects on waterbodies, in a manner consistent with §§ 401 and 404 of the Clean Water Act;

() "Tennessee stream mitigation program" (TSMP) means an organization that is approved by the USACE as a mitigation bank or to manage or perform third-party

compensatory mitigation under the § 404 permit program, and is approved for such purposes under the Section 401 certification program; and

() "USACE" means the United States army corps of engineers.

SECTION 2. Tennessee Code Annotated, Title 69, Chapter 3, Part 1, is amended by adding the following as a new, appropriately designated section:

69-3-1___. All funds contributed by a permittee under a § 404 permit into the Tennessee stream mitigation program for a project designed for stream restoration and mitigation shall be utilized within the county where the adverse effects occur.

SECTION 3. Tennessee Code Annotated, Title 68, Chapter 131, Part 1, is amended by adding the following as a new, appropriately designated section:

68-131-1___. Notwithstanding any law to the contrary, all penalties assessed by the department that are more than ten thousand dollars (\$10,000) shall be used in the county where known or threatened releases of hazardous substances, including hazardous wastes, pollutants, or contaminants, were discovered.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 6. For the purpose of promulgating rules and regulations this act shall take effect upon becoming a law, and for all other purpose this act shall take effect October 1, 2012, the public welfare requiring it.